

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LARRY GRIGGS,)
)
Petitioner,)
)
v.) Case No. 4:06CV514 RWS
)
DON ROPER,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Larry Griggs. I referred this matter to United States Magistrate Judge Mary Ann L. Medler for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On November 28, 2006, Judge Medler filed her recommendation that Griggs's habeas petition should be denied.

Objections to Judge Medler's Report and Recommendation were due to be filed by December 11, 2006. As of the date of this order, Griggs has not filed any objection to the Report and Recommendation.¹ After careful consideration, I will adopt and sustain the thorough reasoning of Judge Medler and I will deny Griggs's habeas petition for the reasons stated in the Report and Recommendation dated November 28, 2006.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial

¹ It appears that Griggs has elected not to file objections and wishes to proceed with an appeal of Judge Medler's recommendation. Griggs filed a notice of appeal on December 6, 2006.

showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Medler's Report and Recommendation filed on November 28, 2006 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Larry Griggs's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 15th day of December, 2006.